

### **REMARKS/ARGUMENTS**

This Response is intended to fully reply to the Final Office Action mailed February 21, 2008. In that Final Office Action claims 1-3, 6-11, 16-23, and 31-42 were examined, and all claims were rejected. More specifically, claims 1-3, 6-8, 10, 11, and 34-42 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,787,262 to Shakib, hereinafter "Shakib." Claims 16-23 and 31-33 were rejected under 35 U.S.C. § 103(a) as being obvious over Shakib in view of U.S. Patent No. 6,938,084 to Gamache, hereinafter "Gamache." Reconsideration of these rejections, as they might apply to the original claims in view of these remarks is respectfully requested.

In this Response, claims 1, 16, 31, and 34 have been amended. No claims are canceled or newly added.

### **Interview Summary**

The undersigned thanks Examiner Dune Ly for the telephone interview conducted on May 6, 2008. During the interview, the undersigned and Examiner Ly discussed some proposed claim amendments. The current claim amendments are similar to the proposed claim amendments discussed with Examiner Ly. The undersigned discussed the differences between the fence value recited in the claims and the change number described by Shakib. Examiner Ly described his interpretation of Shakib. Examiner Ly indicated he would reconsider Shakib in light of the claim amendments. No agreement was reached on allowance of claims.

The undersigned also made Examiner Ly aware of a related European patent application. The undersigned informed Examiner Ly that information from the European patent application had been submitted in a Supplemental Information Disclosure Statement on March 26, 2008. The undersigned also offered to answer any questions about the related European patent application.

### **Information Disclosure Statement**

The undersigned respectfully requests that Examiner Ly consider the information in the Supplemental Information Disclosure Statement filed on March 26, 2008.

**Claim Rejections – 35 U.S.C. § 102**

Claims 1-3, 6-8, 10, 11, and 34-42 were rejected under 35 U.S.C. § 102(b) as being anticipated by Shakib. Applicants respectfully traverse this rejection because Shakib fails to teach the use of a fence value that is independent of any change made to the content of the second member.

Shakib describes that servers keep track of locally made changes to a particular copy of a replica which contains one or more data objects. Each server periodically broadcasts the new locally made changes (since the last replication broadcast) to all other servers with a copy of the same replication data set. Shakib teaches that each change made to an object is uniquely identified by a change number. That is, when a change to an object is made, a change number is assigned to the change. A change number is incremented each time a new change is made. In the event of a conflict, Shakib describes that the conflicts are resolved and result in the creation of conflict objects. Conflict objects are made from the winner object with attached conflicting objects. Nowhere does Shakib make mention of a fence value as recited in the claims.

Independent claims 1, 16, 31, and 34 have been amended to clarify that the fence values are independent of any change made to the content of an associated resource. In other words, the fence values are neither created nor changed as a result of changes made to content of a resource. Shakib does not disclose such a feature.

The office action points to the change numbers of Shakib as analogous to the fence values claimed in claim 1. Shakib's change numbers however are not the same as a fence value. A change number is specifically defined in Shakib as a unique identifying code used to identify a particular change made to a particular copy of a data object by a particular replica node. *See Shakib*, col. 3, lns. 41-45. That is, the change number is specifically created as a result of a change to an object. Moreover, the value of a change number is dependent upon previous changes made to an object since the change numbers are created, at least in part, with an incrementally increasing counter. *See Shakib*, col. 12, lns. 33-48. In contrast, a fence value as recited in claim 1 is independent of any change made to the content of an associated resource. Thus, Shakib fails to teach all of the elements of the independent claims, making the claims patentable over the teachings of Shakib. Claims 2, 3, and 6-11, 17-23, and 33-42 depend,

directly or indirectly, upon one of claims 1, 16, 31, and 34 and are therefore allowable for at least the same reasons.

**Claim Rejections – 35 U.S.C. § 103**

Claims 16-23 and 31-33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shakib in view of Gamache. Applicants respectfully traverse this rejection because the combination of Shakib and Gamache fails to teach all of the elements of the claims and specifically fails to teach the use of a fence value that is independent of any change made to the content of the second member, as recited in independent claims 16 and 31.

As noted above Shakib does not teach a fence value that is independent of changes made to content. Gamache does not compensate for the deficiency in Shakib. Gamache describes a method and system for organizing a cluster of servers. The method includes storing cluster operation data on at least three replicas, which are independent from any given server. The cluster operates as long as at least one server maintains a majority of the replicas storing the cluster operational data. Gamache describes a replication process by which the most up to date replica, based on an epoch number, propagates changes to the other replica members. The epoch numbers are associated with a recovery process in which each replica is updated to include the latest changes, after which an epoch number is incremented. In other words, epoch numbers are associated with local changes to the content of a replica and therefore are not analogous to the claimed fence values.

The combination of Shakib and Gamache thus does not teach all of the elements of independent claims 16 and 31, making them patentable over the combination of references. Claims 17-23, 32, and 33 depend, directly or indirectly, upon one of claims 16 and 31 and are therefore allowable for at least the same reasons.

**Conclusion**

This Amendment & Response fully responds to the Final Office Action mailed on February 21, 2008. Still, the Final Office Action may contain arguments and rejections that are not directly addressed by this Amendment & Response because they are rendered moot in light of the preceding arguments in favor of patentability. Hence, failure of this Amendment & Response to directly address an argument raised in the Final Office Action should not be taken as an indication that the argument has merit. Additionally, failure to address statements/comments made by the Examiner does not mean that the Applicants acquiesce to such statements or comments. Furthermore, the claims of the present application may include other elements, not discussed in this Amendment & Response, which are not shown, taught, or otherwise suggested by the art of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

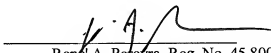
It is believed that no fees are due with this Amendment & Response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment with respect to this patent application to deposit account number 13-2725.

In light of the above remarks, it is believed that the application is now in condition for allowance and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted,

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René A. Pereyra, Reg. No. 45,800  
Merchant & Gould P.C.  
P.O. Box 2903  
Minneapolis, MN 55402-0903  
(303)357.1637